

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES  
DISTRICT COURT  
ELECTRONICALLY FILED  
DOC #  
DATE FILED: 9/11/15

PERMISSION DATA, LLC,

Plaintiff,

-v-

NEWSMAX MEDIA, INC.,

Defendant.

14 Civ. 7129 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

This order resolves discovery disputes brought to the Court’s attention by defendant Newsmax Media, Inc. (“Newsmax”), which seeks to take depositions of an executive and an employee of plaintiff Permission Data, LLC (“Permission Data”). Dkt. 41–42. It also addresses a joint request of the parties for extensions of several deadlines. Dkt. 43–46.

**A. Discovery Disputes**

Newsmax seeks first to compel the deposition of Eric O’Neill, Permission Data’s chief executive officer. Dkt. 41. Newsmax argues that Mr. O’Neill has “relevant, unique, and superior knowledge” regarding Permission Data’s claims and defenses, as well as its contracts, campaign reporting, internal technology capabilities, internal processes and protocol, and past experience with vendors. *Id.* at 1–2. It also notes that Mr. O’Neill was identified by Permission Data’s Rule 30(b)(6) corporate representative as the only person with knowledge regarding Permission Data’s decision to initiate this action and certain aspects of Permission Data’s relationships with sub-publishers that worked on Newsmax’s digital advertising campaigns. *Id.* at 2. Significantly, Permission Data, although opposing Newsmax’s request to take Mr.

O'Neill's deposition, has reserved the right to call him as a fact witness at trial. Given that, and given Newsmax's proffer as to Mr. O'Neill's ability to supply relevant testimony, the Court directs that his testimony go forward, and grants the motion to compel.

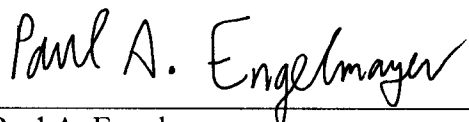
Newsmax also seeks to take the deposition of Vivian Chu, a Permission Data employee. Newsmax has identified several areas of potentially relevant testimony that Ms. Chu could supply, regarding, *inter alia*, Permission Data's internal processes and protocol. *Id.* at 3. The Court agrees that she, too, is a proper deposition witness, and grants the motion to compel.

**B. Extension of Deadlines**

The parties jointly seek to extend the pending fact and expert discovery deadlines, and the deadline to request a pre-motion conference to file a summary judgment motion. Dkt. 43 at 2. The parties also request an adjournment of their settlement conference before the Honorable Michael H. Dolinger. *Id.* The Court grants the parties' requests as to the discovery and the pre-motion conference deadlines, as reflected in the attached revised case management plan. As to adjourning the settlement conference, however, that request must be directed to Judge Dolinger. In light of the above extensions, the Court therefore adjourns the case management conference, presently scheduled for October 5, 2015, at 10 a.m., until January 7, 2015, at 10 a.m.

The Clerk is directed to terminate the motions pending at docket numbers 41 and 43-46.

SO ORDERED.

  
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Paul A. Engelmayer  
United States District Judge

Dated: September 11, 2015  
New York, New York